

CITY OF REDDING

Personnel Policies and Procedures Manual

Section: Miscellaneous Policies

Subject: Harassment, Discrimination, & Retaliation Policy and Complaint Procedure

Personnel Director: SP Maagel

Date: January 22, 2021

City Manager: Bamberg

Date: JAN 25, 2021

City Council Resolution No. (if applicable) _____

Effective Date: 5/29/07

Purpose

The purpose of this Policy is to establish a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in City of Redding workplaces; to define those terms; and to set forth a procedure for investigating and resolving internal complaints. The City encourages all individuals to report – as soon as possible – any conduct that is believed to violate this Policy.

Policy

The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of law in order to violate this Policy. Instead a single act can violate this Policy and provide grounds for disciplinary action.

Harassment or discrimination against an employee by a supervisor, management employee, co-worker or contractor on the basis of race, religion, color, sex (including childbirth, gender, gender identity, gender expression and pregnancy), sexual orientation, national origin and ancestry, citizenship status, military and veteran status, marital status, pregnancy and perceived pregnancy, age (for people 40 and older), medical condition (including cancer/genetic characteristics), genetic information, and physical or mental disability will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Disciplinary action up to and including termination will be instituted for prohibited behavior as outlined in the Definitions section.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate disciplinary action up to and including termination from employment with the City.

Definitions

- A. **Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes harassment or discrimination against an employee by a supervisor, management employee, co-worker or

contractor on the basis of race, religion, color, sex, (including childbirth, gender, gender identity, gender expression and pregnancy), sexual orientation, national origin and ancestry, citizenship status, military and veteran status, marital status, pregnancy and perceived pregnancy, age (for people 40 and older), medical condition (including cancer/genetic characteristics), genetic information, and physical or mental disability.

- B. **Policy Coverage:** This Policy prohibits City officials, officers, employees or contractors from harassing or discriminating against City officials, officers, employees, or contractors because: 1) of an individual's protected classification; 2) of the perception that an individual has a protected classification; or, 3) the individual associates with a person who has or is perceived to be in a protected classification.
- C. **Discrimination:** This Policy prohibits treating individuals differently because of the individual's protected classification as set forth in this Policy.
- D. **Harassment:** May include, but is not limited to, the following types of behavior that is taken because of a person's protected classification. Note that harassment is not limited to an employee's conduct. Under certain circumstances, harassment can also include conduct by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public. Examples include:

Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This may include, but is not limited to, inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.

Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.

Visual insults, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.

Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

- E. **Retaliation:** Any adverse conduct taken because an employee or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is

involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

Guidelines for Identifying Harassment: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:

- A. Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
- B. It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
- C. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude someone from complaining if the conduct is repeated in the future.
- D. Even visual, verbal, and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third employee, officer, official, or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- E. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

Complaint Procedure

- A. An employee or contractor who believes he or she has been harassed may make a complaint verbally or in writing with any of the following. There is no need to follow the chain of command:
 - 1. Immediate supervisor;
 - 2. Any supervisor or manager within the department;
 - 3. Department director; or
 - 4. Personnel Director
- B. Any supervisor or department director who receives a harassment complaint should notify the Personnel Director immediately.
- C. Upon receiving notification of a harassment complaint, the Personnel Director will **immediately:**

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with: 1) the complainant; 2) the accused harasser; and 3) other persons who have relevant knowledge concerning the complaint. The investigation process will be documented and tracked for reasonable progress.
 2. Review the factual information gathered through the investigation in a timely manner to determine whether the alleged conduct constitutes harassment, discrimination or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 3. Report a summary of the determination as to whether harassment occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor, and the department director in a timely manner. If discipline is imposed, the level of discipline will not be communicated to the complainant.
 4. If conduct in violation of this Policy occurred, take and/or recommend to the appropriate authority, prompt and effective remedial action. The action will be commensurate with the severity of the offense.
 5. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.
 6. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
 7. Close the complaint in a timely manner.
- D. The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware of harassment, discrimination or retaliation that may be occurring, regardless of whether the recipient or third party reports a potential violation.
- E. Option to Report to Outside Administrative Agencies: An individual has the option of reporting harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on City bulletin boards for office locations and telephone numbers.

Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective

remedial action. As a result, confidentiality will be maintained to the extent possible. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

Responsibilities

Managers and Supervisors are responsible for:

1. Informing employees of this Policy.
2. Modeling appropriate behavior.
3. Taking all reasonable steps to prevent harassment, discrimination or retaliation from occurring.
4. Receiving complaints in a fair and serious manner, documenting steps taken to resolve complaints.
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
6. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
7. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
8. Assisting, advising, or consulting with employees and the Personnel Director regarding this Policy and Complaint Procedure.
9. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with employer Personnel Rules, up to and including discharge.
10. Implementing appropriate disciplinary and remedial actions.
11. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Personnel Department or the department director.
12. Participating in periodic training and scheduling employees for training.

Each employee or contractor is responsible for:

1. Treating all employees and contractors with respect and consideration.
2. Modeling appropriate behavior.
3. Participating in periodic training.
4. Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
5. Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview, except as directed by the department director or personnel director.
6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, department director, or personnel director.

Dissemination of Policy

All employees will receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed.

EEOC CONTACT INFORMATION

EEOC's National Contact Center (NCC) customer service representatives are available to assist you in more than 100 languages between 5:00 a.m. and 5:00 p.m. Pacific Time. An automated system with answers to frequently asked questions is available on a 24-hour basis. You can reach the NCC:

By mail:

U.S. Equal Employment Opportunity Commission
San Francisco District Office
5 West, P.O. Box 36025
San Francisco, CA 94102-3661

By phone:

1-800-669-4000

By Email:

info@eeoc.gov

EEOC Headquarters is located at:

U.S. Equal Employment Opportunity Commission 131 M Street, Washington, D.C. 20507 Phone:
(202) 663-4900 TTY: (202) 663-4494

DFEH CONTACT INFORMATION

Employment/Public Accommodations:

1-800-884-1684

1-800-700-2320 (TTY)

Housing:

1-800-884-1684

1-800-700-2320 (TTY)

Hate Violence:

1-800-884-1684

1-800-700-2320 (TTY)

DFEH SEXUAL HARASSMENT PREVENTION TRAINING

<https://www.dfeh.ca.gov/shpt/>

CITY OF REDDING – PERSONNEL DEPARTMENT

Harassment, Discrimination & Retaliation Policy Complaint Form

Person Reporting Incident: _____ Department: _____

Date/Time of Incident: _____ Location: _____

Other Persons Involved: _____

Witness(es): _____

Witness(es) phone number(s): _____

NATURE OF COMPLAINT: ☐ Race ☐ Color ☐ Ethnicity ☐ Age ☐ Religion ☐ Gender

☐ National Origin ☐ Political Affiliation ☐ Sexual Orientation ☐ Sex ☐ Marital Status

☐ Veteran Status ☐ Disability ☐ Medical Condition ☐ Denial of Family/Medical Leave

☐ Denial of Reasonable Accommodation ☐ Other

1. Fully describe incident:

2. Incident caused by:

Signature: _____ Date: _____
(Person Reporting Incident)

Position/Title: _____ Work Phone Number: _____